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EXAMINER
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COULTER, KENNETH R

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/619,245  
Filing Date: July 14, 2003  
Appellant(s): GOPINATH, BHASKARPILLAI

**MAILED**

**SEP 10 2007**

**Technology Center 2100**

John T. Peoples (Reg. No. 28,250)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 3/23/07 and 5/21/07 appealing from the  
Office action mailed 1/4/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief:

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

However, the summary does include arguments pertaining to a two-tiered hierarchy with a service provider and participants. This two-tiered hierarchy is not explicitly or implicitly contained in the claim language.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

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No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Conklin et al. (U.S. Pat. No. 6,141,653) (System for Interactive, Multivariate Negotiations Over a Network).

2.1 Regarding claim 1, Conklin discloses a method for servicing a dynamically formed group of participants for a temporary social occasion comprising:

provisioning a set of computer network-implemented services available from a service provider (Abstract "system provider's Internet site"; col. 13, line 66 – col. 14, line 26);

configuring an application to execute on a server accessible to the participants via the service provider, the application being user-created by one of the participants choosing selected ones of the services corresponding to the occasion (Abstract “allows a **seller/participant** to use remote authoring templates to **create a complete Website for immediate integration and activation in the community**, to evaluate proposed buyer orders and counteroffers, and to negotiate multiple variables such as prices, terms, conditions etc., **iteratively with a buyer.**” ; col. 13, line 66 – col. 14, line 26);

executing the application to interconnect and coordinate the interactions of the participants for the occasion (Abstract; col. 28, lines 37 – 65); and

capturing all of the interactions of the participants throughout the duration of the occasion in a thread-of-activity file stored on the server for later recall by at least one of the participants (Fig. 28; Abstract “The system maintains **internal databases that contain the history of all transactions in each community**, so that sponsors, buyers and sellers may retrieve appropriate records to document each stage of interaction and negotiation.”; col. 13, line 66 – col. 14, line 26; col. 18, lines 18 – 37 “Multivariate negotiations engine system 02 can **archive the multimedia sessions** as video and audio files to be stored with the text.”; col. 30, lines 52 – 65).

2.2 Per claim 2, Conklin teaches the method as recited in claim 1 wherein the configuring includes presenting an on-line form via a website provided by the service provider and filling in the form by said one of the participants to choose said selected ones of the services and thereby configure the application (Abstract; Fig. 5a; col. 20,

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lines 5 – 22).

2.3 Regarding claim 3, Conklin discloses the method as recited in claim 1 wherein one of the services is teleconferencing service and the configuring includes establishing a teleconference call among at least two of the participants (col. 18, lines 17 – 37 **“video conferencing and other multimedia techniques** can be added to multivariate negotiations engine system 02.”).

2.4 Per claim 4, Conklin does not explicitly teach the method as recited in claim 1 wherein the method further includes, after the capturing, deactivating the application to await automatic self-activation of the application at a specified later time with reference to the thread-of-activity file

However, such a scenario is inherent in Conklin, in order to minimize the number of active applications on the “multivariate negotiations engine” (Abstract).

2.5 Regarding claim 5, Conklin discloses the method as recited in claim 1 wherein the one of the services is a credit-card charging service and the method further includes charging at least one of the participants for the configuration and execution of the application related to the social occasion (col. 26, lines 43 – 52; col. 28, lines 37 - 65).

2.6 Per claim 6, Conklin teaches the method as recited in claim 1 wherein the one of the services is a credit-card charging service coupled to an on-line store and the

method further includes charging by said store for a gift purchased on-line by at least one of the participants for the social occasion (col. 26, lines 43 – 52; col. 28, lines 37 - 65).

2.7 Regarding claim 7, Conklin discloses the method as recited in claim 1 wherein one of the services is purchasing of gifts from an on-line a gift registry established for the social occasion and the method further includes on-line purchasing of a gift by at least one of the participants for another one of the participants (Abstract “buyer”).

2.8 Per claim 8, Conklin teaches the method as recited in claim 1 wherein the configuring includes configuring the application on-line via a website provided by the service provider and then inviting all of the participants to partake of the social occasion by accessing the website at a time specified by said one of the participants (col. 29, lines 48 - 66).

2.9 Regarding claim 9, Conklin discloses the method as recited in claim 1 wherein the configuring includes capturing all of the interactions between sub-groups of the participants and saving the sub-group interactions in a sub-group thread-of-activity file on the server (Abstract; col. 20 lines 5 – 10 “sellers 08grpa and buyers 08grpb”).

2.10 Per claims 10 – 20, the rejection of claims 1 – 9 under 35 USC 102(e) (paragraphs 2.1 – 2.9 above) applies fully.

### **(10) Response to Argument**

Applicant's arguments filed 3/23/07 (Appeal Brief) have been fully considered but they are not persuasive.

1. Applicant argues that Conklin discloses a three-tiered hierarchy (a service provider, a sponsor, and a plurality of participants) where the sponsor is distinct from the service provider and the participants. Applicant also argues that the present Application implements a two-tiered hierarchy with a service provider and participants. (p. 10, paragraph 1, of the Appeal Brief).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a two-tiered hierarchy) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner notes that these features are not recited in the claim language. The two-tiered hierarchy is not explicitly or implicitly contained in the claim language.

Conklin meets the claimed limitation in claim 1:

configuring an application to execute on a server accessible to the participants via the service provider, the application being user-created by one of the participants



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choosing selected ones of the services corresponding to the occasion (Abstract “allows a **seller/participant** to use remote authoring templates to **create a complete Website for immediate integration and activation in the community**, to evaluate proposed buyer orders and counteroffers, and to negotiate multiple variables such as prices, terms, conditions etc., **iteratively with a buyer.**” ; col. 13, line 66 – col. 14, line 26).

2. Applicant argues that “in the inventive subject matter disclosed and claimed by the Appellant, the host/participant configures the application – a situation that is not possible in Conklin because of the conflict-of-interest relation among the participants.” (p. 13, lines 9 – 12 of the Appeal Brief).

Examiner disagrees.

Conklin clearly has a system that “allows a **seller/participant** to use remote authoring templates to **create a complete Website for immediate integration and activation in the community**, to evaluate proposed buyer orders and counteroffers, and to **negotiate multiple variables** such as prices, terms, conditions etc., **iteratively with a buyer.**” (Abstract).

3. Applicant argues that Conklin does not disclose a “social occasion” (p. 14, last paragraph, of the Appeal Brief).

Examiner disagrees.

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Chat rooms, bulletin boards, and forums are well known online social mediums.

Conklin clearly states that his invention "enables a sponsor to create and administer a **community** between participants **such as** buyers and sellers having similar interest."

(Abstract).

A community encompasses a social occasion.

In addition, Applicant's specification highlights the closeness between "business activities such as 'deal-making meetings'" and special occasions such as "holidays; weddings; anniversaries; graduations; and class reunions."

p. 6, lines 10 – 18 of the specification

Besides the "birthday" occasion, it is readily contemplated that other special occasions may be patterned after this particular occasion; such other occasions include: holidays; weddings; anniversaries; graduations; and class reunions. **Besides this special-occasion category, it is easily contemplated that other types of applications can be implemented in an analogous manner**, including: (a) **business activities such as "deal-making" meetings**; (b) customer care such as disaster recovery from a virus attack; (c) advertising to targeted groups; and (d) travelogues in video/slide format. **The applications engendered by the model in accordance with the present invention are essentially limitless.**

p. 20, lines 5 – 12 of the specification

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It view of the foregoing detailed discussion, **it is readily contemplated that other applications, such as occasions/themes/activities** (e.g., weddings, business, customer care) **can be straight-forwardly realized from the embodiments presented in the foregoing sections.** Services pertinent to these other applications are designed and programmed, and then made available for assembly into the relevant applications. The services of FIG. 3 are generic, and these services can be augmented with other special services (e.g., as above, the "video" and/or "audio" services or the "side-bar" service) so as to realize the desired applications.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kenneth Coulter

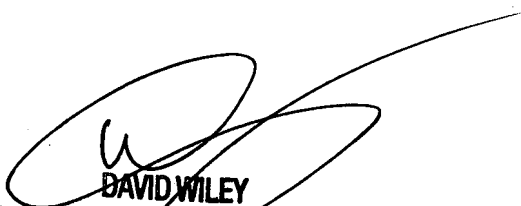
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